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12 **UNITED STATES DISTRICT COURT**
 13 **DISTRICT OF NEVADA**

14 UNITED STATES OF AMERICA,
 15 Plaintiff,
 16 vs.
 17 JUAN ANGEL REYES,
 18 Defendant.

Case No.: 2:20-CR-000156-RFB

19 Government's Sentencing Memorandum and
 20 Response to Juan Angel Reyes' Sentencing
 21 Memorandum (ECF No. 429)

22 The United States of America hereby files this sentencing memorandum and response to
 23 Juan Angel Reyes' Sentencing Memorandum, ECF No. 429, in the case against Juan Angel
 24 Reyes. The Presentence Investigation Report ("PSR") recommends a 70-month sentence to be
 followed by three years of supervised release. For the reasons stated herein, the government
 recommends a sentence of 41 months to be followed by three years of supervised release.

1 I. **Factual and Procedural Background**

2 On January 6, 2020, Reyes and his fellow MS-13-member coconspirators sold 825.8 grams
 3 of actual methamphetamine to Confidential Informants in exchange for four-thousand dollars,
 4 and a three-hundred dollar broker fee to Escalante-Trujillo.

5 On February 23, 2023, Reyes pleaded guilty pursuant to a plea agreement, ECF No. 320,

1 to a one-count Superseding Information, charging him with Conspiracy to Distribute a
 2 Controlled Substance in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 846. ECF Nos.
 3 318 and 322. Reyes admitted to his role in this methamphetamine distribution conspiracy.
 4 Sentencing is currently scheduled for July 13, 2023.

5 **II. Guideline Calculations**

6 Pursuant to U.S.S.G. § 2D1.1(c)(3), the Base Offense Level based on the amount of
 7 narcotics attributable to Reyes (825.8 grams of actual methamphetamine) is 34. PSR ¶ 78. The
 8 PSR accurately subtracted three levels for acceptance of responsibility under U.S.S.G. §
 9 3E1.1(a) and (b). PSR ¶¶ 85-86. This results in Total Offense Level of 31. PSR ¶ 87.¹

10 Reyes refuses to meet with the government in order to provide information or evidence
 11 pertaining to his offense, so he fails to meet eligibility for “safety valve” pursuant to 18 U.S.C. §
 12 3553(f)(5) and U.S.S.G. § 5C1.2. Accordingly, he is ineligible for the two-point reduction under
 13 U.S.S.G. § 2D1.1(b)(18).

14 In the plea agreement, the government agreed to advocate for a four-point downward
 15 variance as part of a group plea offer. ECF No. 320 at 8. Reyes has met the requirements for
 16 this benefit, which brings his offense level to 27. The plea agreement also stipulates that the
 17 parties will advocate for a three-point downward variance. *Id.* at 11. The resulting offense level
 18 is 24.

19 In light of the United States Sentencing Commission’s proposed amendment to § 4C1.1
 20 to lower the base offense level for Zero Point Offenders by two levels, the Government
 21 recommends an additional two-level downward variance to the defendant’s base offense level

22
 23 ¹ The government has no legal objections to the PSR, but raises factual points that do not affect this defendant in a
 meaningful way, but should nonetheless be addressed:

24 ¶10: “Pelan” should be deleted;

¶53 “Adali Arnulfo Escalante-Trujillo, aka ‘Buchaka,’” should be deleted;

¶58 “and Eder Cruz-Salguero, aka ‘Edgar Manolo Ramirez-Salguero’ and ‘Venado,’” should be deleted.

1 after the Court has calculated and applied the Guideline range. After the application of the
 2 three separate variances, the Total Offense Level is 22. Reyes is in Criminal History Category I,
 3 so the applicable range is 41-51 months.

4 **III. Argument**

5 A custodial sentence of 41 months is sufficient, but not greater than necessary, to reflect
 6 the seriousness of the offense, to promote respect for the law, provide just punishment and to
 7 protect the public where Reyes helped facilitate the distribution of methamphetamine as part of
 8 his role in a drug selling, gang-operated conspiracy.

9 The framework for determining an appropriate sentence is set forth in 18 U.S.C. § 3553(a),
 10 which requires that the Court ensure the sentence imposed properly considers, among other
 11 factors: (1) the nature and circumstances of the offense; (2) the history and characteristics of the
 12 defendant; (3) the need to reflect the seriousness of the offense and promote respect for the law;
 13 (4) the need to afford adequate deterrence; and (5) the need to avoid unwarranted sentencing
 14 disparities. The government highlights the following considerations.

15 **A. Seriousness of the offense**

16 Juan Angel Reyes knowingly provided support for a methamphetamine sale with his
 17 fellow gang members. In doing so, he furthered the goal of this drug distribution conspiracy.
 18 Drug trafficking organizations depend on actors just like Reyes to protect and transport
 19 contraband; Reyes actions in this case were for the benefit of MS-13 and supported its goal of
 20 distributing narcotics in Nevada for profit.²

22

23 ² In trying to draw a contrast between Reyes and Eder Cruz-Salguero, Reyes' sentencing memorandum states that Cruz-
 24 Salguero was part of a transaction where drugs "made it to the streets and were sold throughout the community." ECF
 No. 429 at 17-18. This assertion appears to be a misunderstanding. Drugs that were sold to the Confidential Informants
 in the transaction Reyes appears to be referencing were seized by the government. Furthermore, the case against Eder
 Cruz-Salguero was dismissed.

1 Trafficking in methamphetamine is not a victimless crime. As a conspirator in that
2 enterprise, Reyes contributed to a trade that perpetuates overdoses, violence, and addictions; and
3 ruins lives and entire communities. The sentence imposed should reflect the dangers of
4 methamphetamine trafficking, especially when it is done on behalf of a criminal organization.

5 **B. The history and characteristics of the defendant**

6 Juan Angel Reyes is before the Court to be sentenced for his role in a drug trafficking
7 conspiracy, but since his arrest in this case, he has continued to demonstrate his allegiance to the
8 violent, criminal lifestyle of his MS-13 gang. While in custody, Reyes incurred four separate
9 disciplinary infractions for Assault/Battery. PSR ¶ 9. Following one of those occasions, counsel
10 for the government and for Reyes were informed that Reyes was involved in an especially violent
11 assault on September 15, 2022. On that date, Reyes and one of his fellow MS-13 codefendants
12 punched the victim with closed fists while another MS-13 assailant attacked the victim with
13 sharpened metal.

14 Reyes acted to support his criminal organization on the date of his offense conduct,
15 January 6, 2020, and since then, he has demonstrated a continued devotion to the perverse goals
16 of MS-13. The sentence imposed should serve to deter Reyes from continuing his current criminal
17 trajectory.

18 **C. A further downward departure or variance is not warranted**

19 Based on the totality of the circumstances in this case, Juan Angel Reyes was afforded a
20 plea agreement with a three-level downward variance in addition to the group plea variance (and
21 the government is now also recommending another variance as stated above). The plea
22 agreement also allowed Reyes to be charged and sentenced pursuant to 21 U.S.C. §§ 841(a)(1)
23 841(b)(1)(C), and 846, which does not invoke a mandatory minimum sentence. At sentencing,
24 the government will move to dismiss Count Two and Count Eleven of the Indictment as to this

1 defendant; both of those counts carried a mandatory minimum sentence of ten years
2 imprisonment.

3 Some of the mitigating factors raised by Reyes in his sentencing memorandum help justify
4 the sentencing recommendation at the bottom of the applicable range following application of
5 the variances. However, there is no sufficient basis to support an additional downward variance
6 below a 41-month term of imprisonment.

7 **D. Supervised release**

8 The government requests that the court impose the recommended three-year term of
9 supervised release with the standard and special conditions recommended by the United States
10 Probation Office. If Reyes remains within the United States following his term of imprisonment,
11 the recommended conditions are likely to aid in his rehabilitation and reentry. The government
12 also requests a condition that Reyes be required to work or partake in community service if he is
13 not deported automatically. If Reyes is not deported from the United States, such a condition
14 could serve to bring positive influences into Reyes' life that may help him turn away from the
15 negative influences that foster his allegiance to MS-13.

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IV. Conclusion

The United States requests that this Court sentence Juan Angel Reyes to 41 months' custody, followed by three years of supervised release. This sentence is sufficient, but not greater than necessary to accomplish the goals of sentencing.

Dated this 10th day of July, 2023.

Respectfully submitted,

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